

**RECEIVED  
CENTRAL FAX CENTER**

**MAR 03 2005**

PTC/SE67(04-04)

Approved for use through 07/31/2008. OMB 1651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**Certificate of Transmission under 37 CFR 1.8**

USPTO Fax No.: (703) 872-9306

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on March 3, 2005  
Date

M. Kay Lilly  
Signature

M. Kay Lilly

Typed or printed name of person signing Certificate

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

10/749671

HT3827USNA

RESPONSE TO RESTRICTION REQUIREMENT  
CERTIFICATE OF TRANSMISSION

Page 1 of 1

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

MAR 03 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

NICOLE L. BLANKENBECKLER ET. AL.      CASE      HT3827USNA  
NO.:

APPLICATION NO.: 10/749671      GROUP ART      3742  
UNIT:

FILED: DECEMBER 31, 2003      EXAMINER: PHILIP H. LEUNG

FOR: ARTICLE CONTAINING MICROWAVE SUSCEPTOR MATERIAL

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In the Office communication dated February 8, 2005, a restriction was set forth between:

- I. Claims 11-20, drawn to a method of heating a food product, classified in class 426, subclass 241.
- II. Claims 24-30, drawn to a method of making and preparing a food packaging article, classified in class 53, subclass 461.

The Office communication states that claims 1-10 and 21-23 drawn to an article and food packaged article will be examined with the elected invention.

In response, applicants hereby elect the embodiment of Group II, claims 24-30, drawn to a method of making and preparing a food packaging article. This election is made with traverse.

It is respectfully submitted that all claims presented in this patent application should be examined on their merits. The non-elected claims directed to heating a food product represent the use of the article claims and present the use of the article made by the method of elected Group II.

The support for the restriction requirement set forth in paragraph 2 of the Office communication is not understood. Applicants agree with an introductory sentence set forth in paragraph 2, namely "The use as claimed cannot be practiced with a materially different

Application No.: 10/749,671  
Docket No.: HT3827USNA

Page 2

product." (However, applicants question whether the word "cannot" was meant to be -- can -- in support of the Office position).

However, paragraph 2 sets forth an unsupported conclusion in the wording "Since the product... is not allowable...". An obviously erroneous statement is present; no action on the merits of any claim has been set forth concerning a rejection such as under the provisions of 35 USC 112, 35 USC 102 or 35 USC 103.

In summary, applicants traverse the restriction requirement. Clarification of the Office position is requested in view of the fact that an erroneous statement is believed present.

An action on the merits is solicited.

Respectfully submitted,



**ANDREW G. GOLIAN**  
ATTORNEY FOR APPLICANTS  
Registration No.: 25,293  
Telephone: (302) 892-0747  
Facsimile: (302) 892-7343

Dated: March 3, 2005